
Illinois Commerce Commission On Its Own Motion)	
)	
Investigation Concerning Illinois Bell Telephone)	Docket No. 01-0662
Company's compliance with Section 271 of the)	
Telecommunications Act of 1996)	

REBUTTAL AFFIDAVIT OF
SAMUEL S. MCCLERREN
ENGINEERING ANALYST
TELECOMMUNICATIONS DIVISION
ILLINOIS COMMERCE COMMISSION

DATED: March 12, 2003

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I. Introduction

1. I, Samuel S. McClerren, being of lawful age and duly sworn upon my oath, do hereby depose and state as follows:
2. My name is Samuel S. McClerren and my business address is 527 East Capitol Avenue, Springfield, Illinois 62701. I am an Engineering Analyst in the Engineering Department of the Telecommunications Division of the Illinois Commerce Commission ("Commission"). I am the same Samuel S. McClerren that submitted a Phase II affidavit on behalf of Staff of the Illinois Commerce Commission on February 21, 2003.

II. Purpose of Rebuttal Affidavit

3. My rebuttal affidavit responds to the rebuttal affidavit of SBC Illinois' witness James D. Ehr regarding wholesale performance measures ("PMs"). I will again present Staff's overall position on SBC Illinois' PM compliance with the 14 checklist items, and present a revised list of "Key PM's Requiring Improvement."
4. My overall assessment relies heavily on the results of the affidavits provided by the following Staff witnesses, as listed below, including the respective performance results areas that he/she reviewed:

Dr. Geno Staranczak, ICC Staff Exs. 30.0 and 42.0: Statistical Review

Methodology; Billing, Miscellaneous Administrative

Nancy Weber, ICC Staff Exs. 31.0 and 43.0: Preordering/Ordering

Dr. James Zolnierrek, ICC Staff Exs. 32.0 and 44.0: UNEs, Bona Fide
Requests

George Light, ICC Staff Exs. 33.0 and 45.0: NXX, Local Number

Portability, Directory Assistance, and Operator Services.

Russell Murray, ICC Staff Exs. 34.0 and 46.0: Poles, Conduits and Rights
of Way, Interconnection Trunks, Coordinated Conversions

Sanjo Omoniyi, ICC Staff Exs. 35.0 and 47.0: Collocation

Marci Schroll, ICC Staff Exs. 36.0 and 48.0: 911

5. Similar to the other ICC witnesses listed above, I address two subsets of the performance measures, primarily relating to provisioning and resale. Within this rebuttal affidavit, I will also address Mr. Ehr's rebuttal to my position on PMs 29, 35, 37, MI 2, and MI 14. These are the 5 PMs addressed in my Direct Affidavit that were also included in Staff's 21 "Key PM's Requiring Improvement."¹
6. While Staff witness Dr. Melanie Patrick primarily addresses remedy plan issues, I will also address two issues from Mr. Ehr's rebuttal affidavit. Mr. Ehr addresses my concern about the lack of remedy plan coverage and my proposal regarding the proposed four-year term of the Compromise Plan.

¹ ICC Staff Affidavit 29.0, pp. 11-12. These are the PMs I identified as being significant and requiring further effort by SBC Illinois.

III. SBC Illinois' Performance Measurement Data Fails to Demonstrate Compliance With Significant Section 271 Checklist Items

7. SBC Illinois did not present evidence that changes Staff's position. Staff's position continues to be that SBC Illinois' PM data fails to demonstrate compliance with significant Section 271 Checklist items. From pages 2 through 37 of his Phase II Rebuttal Affidavit, Mr. Ehr responds to Staff's concerns regarding SBC Illinois' PM performance. While Mr. Ehr provided useful information that enabled Staff to reassess its original position regarding PMs 5, 29, 35, and CLEC WI 11, there are still 17 PMs for which SBC Illinois' performance remains inadequate and has to be improved. Further, Staff considers these failures to be significant relative to the development or maintenance of a competitive telecommunications market.
8. As noted in the Affidavit of Staff witness Nancy Weber, there is a strong indication that the validity of data provided by the Company as evidence of compliance is in question. ICC Staff Exs. 31 and 43.
9. SBC Illinois has not yet adequately demonstrated that it provides wholesale service to CLECs in a non-discriminatory manner.
10. At the PM level for remedied measures, SBC Illinois failed to provide 29.9% of the 122 PMs in a non-discriminatory manner.
11. At the sub-measure level for remedied measures, SBC Illinois' failed to provide 12.8% of the 484 sub-measures in a non-discriminatory manner.

12. However, Staff's analysis is not driven by SBC Illinois attaining an arbitrarily chosen certain threshold level of performance. Staff has never said the overall performance level has to be at 95%, or any other such number, to demonstrate non-discriminatory service, because any number is subjective. Staff is much more concerned about the important wholesale performance misses that SBC Illinois continues to have. Staff continues to emphasize that this level of wholesale performance by SBC Illinois comes at a time when it is putting its "best face forward." There can be no doubt that SBC Illinois wants Section 271 approval, and has been working diligently toward that goal since the inception of the Telecommunications Act of 1996. For the reasons described herein, SBC Illinois' wholesale performance is inadequate, and I note that it is at this level despite the Docket 01-0120 remedy plan, which SBC Illinois openly characterizes as overly punitive. Accordingly, in the face of this 271 proceeding and the Docket 01-0120 remedy plan, it remains reasonable to conclude that this is "as good as it gets" as far as SBC Illinois wholesale service quality goes. It also remains reasonable to conclude that if this Commission does not require SBC Illinois to bring the 17 significant misses, described below, into compliance, they may never be satisfactorily addressed:

SBC Illinois' Key PM's Requiring Improvement		
PM Number	PM Description	ICC Staff Exh. Citations
7.1	Percent mechanized completions returned within one day	31 & 43
10.1	Percent mechanized rejects returned within one hour.	31 & 43
10.2	Percent manual rejects received electronically and returned with 5 hrs	31 & 43
10.3	Percent manual rejects received manually and returned with 5 hrs	31 & 43
17	Percent of on-time service orders in both ACIS and CABS that post within a 30-day billing cycle	30 & 42
37	The number of trouble reports per 100 lines	29 & 41
55	Average Installation Interval for N,T and C orders	32 & 44
56	Percent Installations Completed Within Customer Requested Due Date	32 & 44
59	Percent network trouble reports within 30 days of installation	32 & 44
62	Average Delay Days for Company caused Missed Due Dates	32 & 44
65	Trouble Report Rate per 100 UNEs	32 & 44
66	Percent Missed Repair Commitments	32 & 44
67	Mean Time to Restore	32 & 44
104	Average time required to update 911 database (facilities based carrier)	36 & 48
MI-2	Percent of orders given jeopardy notices within 24 hours of the due date	29 & 41
MI-14	Percent completion notifications returned within "X" hours of completion of maintenance	29 & 41
C WI-6	Percent form A received with the interval ordered by the Commission	32 & 44

13. The following is Staff's assessment of each of the 14-point checklist items relative to PM performance. To the extent a checklist item was deemed

satisfied in Phase I of this proceeding, Staff always conditioned its position on the actual PM performance to be addressed in Phase 2. Further discussion on each checklist item follows immediately, and additional detail on each PM is provided in the affidavits of the Staff witnesses. Overall, Staff's analysis indicates that the three months of PM data, supplied by SBC Illinois, does not support its assertion that it has complied with the requirements of checklist items 2, 4, 7, and 14.

Staff's 14-Point Checklist Assessment	
Checklist Item 1 – Interconnection/Collocation	Pass
Checklist Item 2 - Access to Network Elements - OSS	Fail
Checklist Item 3 - Access to Poles, Ducts, Conduits, and Rights of Way	Pass
Checklist Item 4 - Unbundled Local Loops	Fail
Checklist Item 5 - Unbundled Local Transport	Pass
Checklist Item 6 - Unbundled Local Switching	Pass
Checklist Item 7 - 911, E-911, Directory Assistance, and Operator Services	Fail
Checklist Item 8 – White Pages Directory	Pass
Checklist Item 9 - Access to Telephone Numbers	Pass
Checklist Item 10 - Nondiscriminatory Access to Databases/Associated Signaling	Pass
Checklist Item 11 - Number Portability	Pass
Checklist Item 12 – Dialing Parity	Pass
Checklist Item 13 – Reciprocal Compensation	Pass
Checklist Item 14 - Resale	Fail

14. The Company appears unwilling to agree that significant areas of wholesale performance improvement remain to be accomplished for it to comply with the 271 checklist items. While there are several PM issues that the Company has indicated it is working on, the Company has not agreed to develop a specific plan with timelines and defined benchmarks to rectify those situations. Nor has the Company committed to providing independent verification of their actions.
15. Based on Staff's PM data review, the Company should not be granted a positive Section 271 recommendation by this Commission. If the Commission finds, notwithstanding Staff's recommendation, that SBC Illinois has met the applicable Section 271 requirements, then the ICC should order the Company to make those improvements as was done in the Michigan 271 proceeding, Case No. U-12320. The Michigan Public Service Commission ("MPSC") ordered SBC Michigan to implement compliance and improvement plans and submit reports as required by U-12320.² If the Commission orders SBC Illinois to participate in a collaborative process, similar to what has been ordered by the MPSC, based on my knowledge of the improvements needed, and the current pace that SBC Illinois makes those types of improvements, a reasonable and appropriate date for SBC

² Michigan Public Service Commission; In the matter, on the Commission's own motion, to consider SBC's, f/k/a AMERITECH MICHIGAN, compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996; Opinion and Order, Case No. U-12320; January 13, 2003.

Illinois to have all performance measure improvement activity concluded is November 30, 2003.

IV. General Observations About SBC Illinois' PM Response

16. In response to problems noted in Staff's PM direct affidavits, Mr. Ehr rebuttal affidavit disagreed with Staff's position that SBC Illinois has PM problems. Mr. Ehr's responses fell into 4 general response types: 1) We're working on it, 2) Not important, 3) Disagreement, or, 4) Not pertinent because the six month collaborative changed the rule. While I provide examples of the "not important" or "disagreement" responses below, individual PM witnesses will address all such responses in their rebuttal affidavits. I also address the "we're working on it" and "not pertinent because the six month collaborative changed the rule."
17. Specific examples of Mr. Ehr's "we're working on it" responses are quoted as follows:
18. Regarding PM MI 13: At current, SBC Midwest is engaged in data reconciliation with AT&T (the first time any CLEC has requested data reconciliation of SBC Midwest) regarding this issue.³
19. Regarding PM MI 14: As I [Ehr] noted at the workshop, effective February 1, 2003, the fax process has been replaced (through discussions and agreement with CLECs in the CLEC User Forum) with the posting of completion notices to a web site.⁴

³ Ehr Rebuttal Affidavit, paragraph 32.

⁴ *Ibid*, paragraph 34.

20. Regarding PM 59: As I [Ehr] stated, SBC Illinois' network organization has been assessing alternatives and implementing changes to address additional facility issues.⁵
21. Regarding PMs 59, 65, 65.1, 66, 67, and 69: Since the restatement of results, SBC Illinois Network organization management staff have taken the following steps to address maintenance and repair performance on CLEC DSL Lineshare loops:⁶
22. Regarding PM 29: As a result of this issue with the mechanized processes, UNE-P Business orders are sometimes given a due date of today when the due date should be 3 days out. The system problem is being resolved. (Note: Staff witness McClerren was able to verify via SBC Illinois' website -- CLEC Online -- that SBC Illinois' PM performance had improved on PM 29 and removed it from the "Key PM's Requiring Improvement.")⁷
23. Regarding PM 35: Moreover, SBC Illinois' Network organization has recently implemented an improved management tool that allows for daily monitoring of PM 35 results, and now has the ability to proactively monitor results and identify issues. (Note: Again, Staff witness McClerren was able to verify via SBC Illinois' website -- CLEC Online -- that SBC Illinois' PM performance had improved on PM 35 and removed it from the "Key PM's Requiring Improvement.")⁸
24. Regarding PM 37: SBC Illinois has determined that these "installation troubles" were caused by the manner in which the order was processed by the facility assignment system, as I discussed previously in this affidavit. System changes are in process to address the issue.⁹
25. Regarding PMs 27 and 28: However, SBC Illinois' Network organization continues to monitor performance and identify any areas where process changes are need to provide parity service on CIA Centrex product orders.¹⁰
26. Regarding PM 38: Moreover, SBC Illinois' Network organization has established additional processes for proactive monitoring of appointments coming due along with ongoing performance monitoring and trend analysis to seek opportunities to improve internal processes.¹¹

⁵ *Ibid*, paragraph 48.

⁶ Ehr Rebuttal Affidavit, paragraph 50.

⁷ *Ibid*, paragraph 68.

⁸ *Ibid*, paragraph 69.

⁹ *Ibid*, paragraph 71.

¹⁰ *Ibid*, paragraph 86.

¹¹ *Ibid*, paragraph 87.

27. Regarding PM 37: SBC Illinois has determined that these “installation troubles” were caused by the manner in which the order was processed by the facility assignment system, as I (Ehr) discussed previously in this affidavit. System changes are in process to address the issue.¹²
28. Regarding PM 54 and 54.1: While no specific root cause has yet been identified for the lack of parity performance on Resold ISDN PRI trouble report rates, SBC Illinois’ Network organization continues to monitor performance and analyze processes to minimize the number of troubles realized by CLEC end-customers on those circuits.¹³
29. SBC Illinois indicates that it is taking some action relative to these measures. Unfortunately, there is no basis to say that SBC Illinois’ plans are adequate, since Staff doesn’t know what the plans are and we have no defined opportunity to verify that improvements have been made. If the Commission finds, notwithstanding Staff’s recommendation, that SBC Illinois has met the applicable Section 271 requirements, any positive Section 271 recommendation must be conditioned such that this Commission is able to verify that specific actions are being taken on a definite timeline and have independent confirmation that the actions were taken. At a minimum, the Commission must verify that Company actions result in acceptable PM performance.
30. An example of Mr. Ehr’s “not important” rebuttal response is assessed in the rebuttal testimony of Staff witness Dr. Staranczak, ICC Staff Ex. 42.0, regarding PM 17, Billing. Effectively, Mr. Ehr contends SBCI uses a standard that is higher than what is required by the business rules for this measure, that SBC Illinois’ performance is good enough, and that

¹² *Ibid*, paragraph 88.

¹³ Ehr Rebuttal Affidavit, paragraph 89.

adjustments to PM17 have been recently agreed to and SBC Illinois will now pass PM17.

31. Staff Witness Dr. Staranczak correctly notes that Mr. Ehr has not indicated what steps has SBCI taken to ensure it will pass PM17 under the more suitable comparisons of like retail products. According to the evidence submitted in this docket and data available for Staff review, SBC Illinois has consistently failed PM17, whether its performance is compared to its affiliate or its performance is compared to its retail operations. Dr. Staranczak noted that SBC Illinois failed this performance measure again in January 2003, both against its affiliate and against its retail operations.¹⁴ Other individual PM witnesses address the remaining “not important” responses in their rebuttal affidavits.
32. An example of Mr. Ehr’s “disagreement” rebuttal response is assessed in the rebuttal testimony of Staff witness Weber regarding PMs 13 and 13.1, Order Process Flow Through.¹⁵ Mr. Ehr contends that flow through data from PM 13 has to be viewed in the context of other measures, and that “apples to oranges” comparisons must be avoided. Ehr Rebuttal Affidavit paragraphs 26 and 27. Staff witness Weber agrees that review of the companion measure PM 13.1 is useful, and concludes that, “Therefore, regardless of Mr. Ehr’s remarks excusing the company’s performance for PM 13, my review of the companion measure PM 13.1 indicates that my

¹⁴ ICC Staff Ex. 42.0, paragraph 9.

¹⁵ ICC Staff Ex. 43.0.

original analysis that the Company has failed to perform with respect to PM 13 remains unchanged.”¹⁶ Other individual PM witnesses address the remaining “disagreement” responses in their rebuttal affidavits.

33. Regarding Mr. Ehr’s responses that the PM issue is “not pertinent because the six month collaborative changed the rule,” I do not believe it is appropriate for SBC Illinois to indicate a PM is no longer a problem because it has been revised in the most recent 6 month collaborative review. As claimed in paragraphs 21, 23, 34, and 37 of Ehr’s Rebuttal Affidavit, the misses aren’t applicable because there is a new business rule labeled Version 1.9 that directly impacts this PM from Version 1.8. As I stated in my Direct Affidavit:

Additionally, there may be some confusion about which version of the business rules is applicable, and Staff states that the 271 application should be evaluated on performance data that SBC has filed in its evidence and not on what the PM data might look like under different business rules (e.g., Version 1.9).¹⁷

34. It is simply unreasonable to ask the parties in this proceeding to try and anticipate what SBC Illinois’ PM performance will be for measures whose business rules are changing. To a certain extent, this proceeding has to focus on the business rules that were in effect in the three months that SBC Illinois chose, i.e., September, October and November, 2002. If the Company failed the PMs under the existing business rules, there is no record to support the contention that they will pass the measure in the future.

¹⁶ *Ibid*, paragraph 13.

¹⁷ ICC Staff Ex. 29.0, paragraph 20.

35. Following is a summary discussion of each checklist item.

V. Checklist Item 1 – Interconnection/Collocation

36. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 1 is satisfactory, and therefore is providing interconnection in accordance with the requirements of §§251(c)(2) and 252(d)(1).

VI. Checklist Item 2 - Access to Network Elements - OSS

37. In spite of Mr. Ehr's rebuttal responses, Staff remains convinced that the Company's failure on 11 PMs, (i.e., 7.1, 10.1, 10.2, 10.3, 10.4, 11.1, 13, 17, MI 2, MI 13, and MI 14), regarding ordering, billing, jeopardy notices and completion notifications, demonstrates that SBC Illinois is providing discriminatory service to CLECs relative to Checklist Item 2.

38. Further discussion of Staff's position on ordering PMs 7.1, 10.1, 10.2, 10.3, 10.4, 11.1, 13, and MI 13 are contained in the affidavits of Nancy Weber, ICC Staff Exs. 31.0 & 43.0. Further discussion of Staff's position on billing, is provided in the affidavits of Dr. Geno Staranczak, ICC Staff Exs. 30.0 & 42.0. Further discussion of Staff's position on jeopardy notices and

completion notifications is found in my Direct Affidavit, ICC Staff Ex. 29.0, and herein.

VII. Checklist Item 3 - Access to Poles, Ducts, Conduits, and Rights of Way

39. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 3 is satisfactory, and therefore is providing nondiscriminatory access to poles, ducts, conduits and rights-of-way.

VIII. Checklist Item 4 - Unbundled Local Loops

40. In spite of Mr. Ehr's rebuttal responses, Staff remains convinced that the Company's failure on the following issues demonstrates that SBC Illinois is providing discriminatory service to CLECs relative to Checklist Item 4:
- CLEC WI 6 – 02 - FMOD Form A notifications related to stand-alone DSL orders are not sent in a timely manner.
 - Sub-measures 59-03, 65-03, 65.1-03, 67-03, 67-18, and 66-03, regarding maintenance and repair performance, are not meeting applicable parity standards.
 - PMs 55-01.1, 55-01.2, and 55-01.3, regarding voice grade loops continue to fail.

Further discussion of Staff's position on these Checklist Item 4 PMs is contained in the affidavit of Dr. James Zolnierrek, ICC Staff Exs. 32.0 & 44.0.

IX. Checklist Item 5 - Unbundled Local Transport

41. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 5 is satisfactory.

X. Checklist Item 6 – Unbundled Local Switching

42. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 6 is satisfactory.

XI. Checklist Item 7 - 911, E-911, Directory Assistance, and Operator Services

43. Staff doesn't believe that SBC Illinois has adequately explained how it is meeting the parity standard for PM 104 and cannot verify that they are providing non-discriminatory access to CLECs. Meeting the National Emergency Number Association ("NENA") standards (processing updates to the 9-1-1 database within 24 hours) does not indicate that SBC Illinois is providing non-discriminatory access to 9-1-1. Staff considers any failure relative to 911 service unacceptable. Further discussion of Staff's position on Checklist Item 7 is contained in the affidavits of Marci Schroll, ICC Staff Exs. 36.0 & 48.0.

XII. Checklist Item 8 – White Pages Directory

44. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 8 is satisfactory.

XIII. Checklist Item 9 - Access to Telephone Numbers

45. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 9 is satisfactory.

**XIV. Checklist Item 10 – Nondiscriminatory Access to Databases and
Associated Signaling Necessary For Call Routing and Completion**

46. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that, since no PMs were identified that addressed databases and signaling, SBC Illinois' reported performance relative to checklist item 10 is satisfactory.

XV. Checklist Item 11 - Number Portability

47. As indicated in ICC Staff Exhibit 29.0, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 11 is satisfactory.

XVI. Checklist Item 12 – Dialing Parity

48. As indicated in ICC Staff Exhibit 29.0, since no PMs were identified that addressed dialing parity, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 12 is satisfactory.

XVII. Checklist Item 13 – Reciprocal Compensation

49. As indicated in ICC Staff Exhibit 29.0, since no PMs were identified that addressed reciprocal compensation, it is Staff's determination that SBC Illinois' reported performance relative to checklist item 13 is satisfactory.

XVIII. Checklist Item 14 – Resale

50. It is Staff's determination that SBC Illinois' reported performance relative to checklist item 14 is unsatisfactory, based primarily on the Company's performance on PM 37 - Trouble Report Rate.
51. With a sub-measure pass rate of 50%, SBC Illinois failed to provide PM 37 in a non-discriminatory manner. Data reported by SBC Illinois indicates that there is a statistically higher number of trouble reports for SBC Illinois facilities provisioned to CLEC customers than there are numbers of trouble reports from SBC Illinois customers for POTS residential (PM 37-1).

XIX. SBC Illinois witness' Ehr Complains that Staff's Assessment Methodology Was Applied in a Rigid Manner.

52. Mr. Ehr complains that, in the review of PM 29, "Staff Witness McClerren, however, rigidly applies Staff's "90 percent" guideline."¹⁸ Mr. Ehr believes that I did not apply judgment to Staff's assessment methodology in my assessment of SBC Illinois' PM performance. Mr. Ehr fails to note that I

¹⁸ Ehr Rebuttal Affidavit, paragraphs 11 and 67.

identified several PM failures, yet did not elevate those failures to the level of “Key PMs Requiring Improvement,” in my Direct Affidavit.¹⁹ For example, Mr. Ehr takes me to task as follows:

53. Staff Witness McClerren, however, notes that one of the six POTS disaggregations (Centrex with field work) was out of parity in two of the three study period months for average installation interval (PM 27-09) and for the percentage of installations completed within the customer-requested due date (PM 28-09). As with Mr. McClerren’s analysis of UNE-P, his conclusion does not properly consider these categories in context.”²⁰
54. As Mr. McClerren points out, PM 38-02 (POTS Residence – No Dispatch) was out of parity two of the three study period months. Again, however, the differences in that category were small (SBC Illinois fell short of parity by two missed appointments in September and one in November).²¹
55. Staff Witness McClerren also identifies that SBC Illinois did not achieve parity for PM 54.1-04 (Trouble Report Rate Net of Installation and Repeat Reports – Resold Specials – VGPL), the corollary PM 54-04 (Failure Frequency – Design – Resold Specials – VGPL), and PM 54-06 (Failure Frequency – Design – Resold Specials – ISDN PRI). McClerren Aff. ¶ 103. SBC Illinois’ Network organization’s analysis has shown that a large number of the trouble reports for Resold VGPL were caused by Central Office work errors (i.e. wires missing, equipment optioned wrong, etc).²²
56. Given that Mr. Ehr takes me to task for my statements on the Company’s performance problems on PMs 27, 28, 38, 54, and 54.1, it would appear reasonable to assume that I had “rigidly,” and therefore inappropriately, applied Staff’s assessment methodology.

¹⁹ ICC Staff Ex. 29.0, pages 11-12.

²⁰ Ehr Rebuttal Affidavit, paragraph 86.

²¹ Ehr Rebuttal Affidavit, paragraph 87.

²² Ehr Rebuttal Affidavit, paragraph 89.

57. To the contrary, I did not apply Staff's assessment methodology in a rigid fashion, and did exercise judgment where appropriate. PM 27 was identified by Staff's assessment methodology as a "pass," so it is unclear how Mr. Ehr included this as an example in his list of my "rigid" application of Staff's assessment methodology.
58. Regarding PM 28, the Company's wholesale performance warranted a "fail" under Staff's assessment methodology. However, review of the "Key PMs Requiring Improvement" in my direct affidavit should have led Mr. Ehr to the conclusion that I had identified some mitigating factors. For PM 28, I was convinced that sub-measure 28-9 was a low volume transaction, and sub-measure 28-11 had become a low volume transaction and that SBC Illinois' performance was both in and out of PM requirements. Low volume transactions are those performance measures incurring small CLEC demand, and therefore less impacting on the competitive telecommunications market. PM 28 was not included in the "Key PMs Requiring Improvement" table.
59. Regarding PM 38, the Company's wholesale performance warranted a "fail" under Staff's assessment methodology. However, review of the "Key PMs Requiring Improvement" in my direct affidavit should have led Mr. Ehr to the conclusion that I had again identified some mitigating factors. For PM 38, the sub-measure 38.2 lower volume and that SBC Illinois' performance was

both in and out of PM requirements. PM 38 was not included in the “Key PMs Requiring Improvement” table.

60. Regarding PM 54, the Company’s wholesale performance warranted a “fail” under Staff’s assessment methodology. However, review of the “Key PMs Requiring Improvement” in my direct affidavit should have once again led Mr. Ehr to the conclusion that I had identified some mitigating factors and not been rigid in my application. For PM 54, the sub-measures 54-4 and 54-6 had low transaction volumes and Mr. Ehr had addressed them in his cross examination and on the record data requests. PM 54 was not included in the “Key PMs Requiring Improvement” table.
61. Regarding PM 54.1, the Company’s wholesale performance again warranted a “fail” under Staff’s assessment methodology. However, review of the “Key PMs Requiring Improvement” in my direct affidavit should have again led Mr. Ehr to the conclusion that I had identified some mitigating factors. For PM 54.1, the sub-measure 54.1-4 had low transaction volumes and Mr. Ehr had addressed them in his cross examination and on the record data requests. PM 54.1 was not included in the “Key PMs Requiring Improvement” table.
62. Accordingly, it is inappropriate for Mr. Ehr to contend that Staff’s assessment was inappropriately “rigid” regarding SBC Illinois’ PM performance. Staff applied judgment to the PMs where appropriate.

XX. Response to Ehr's Position on PM 29: Percent of N, T, and C Orders Where Installation Was Not Completed as a Result of Company Caused Missed Due Date.

63. This PM failure focuses on the Company's efforts relative to the sub-measure 29-7 for UNE-P, business fieldwork. Mr. Ehr objects to the contextual totality of this failure, stating that I rigidly assigned this failure even though three other sub-measures were passed. Further, Mr. Ehr argues that this is a relatively low volume sub-measure.²³
64. I do not agree that I was inappropriately rigid in my review of sub-measure 29-7. While sub-measure 29-7 had 2,873 transactions in the last 12 months, I was more concerned about the trend of the misses. However, SBC Illinois' website -- CLEC Online -- now reports that SBC Illinois passed PM 29-7 for both December 2002 (z-factor of 1.496) and January 2003 (z-factor of 1.493). Given this recently improved service, I will revise my position on PM 29 and delete it from the "Key PM's Requiring Improvement" list.

XXI. Response to Ehr's Position on PM 35: Percent Trouble Reports Within 30 Days of Installation.

65. This PM failure focuses on the Company's efforts relative to the sub-measure 35-7 for UNE-P, business fieldwork. Mr. Ehr again objects to the contextual totality of this failure, stating that I rigidly assigned this failure

²³ Ehr Rebuttal Affidavit, paragraph 67.

even though three other sub-measures were passed. Further, Mr. Ehr argues that this is a sub-measure with relatively low transaction volumes.²⁴

“However, Messrs. McClerren and Connolly focus solely on the fourth category, PM 35-07 (business with field work), where SBC Illinois’ performance results met the standard for parity in September but not in October or November. Again, however, their comments overlook the fact that the volumes in this category were relatively small (for November, UNE-P business orders comprised only 0.36 percent of all UNE-P orders completed in the month, and only 4.5% of all UNE-P orders that required field work).”²⁵

66. I am not persuaded that passing three other sub-measures, or Mr. Ehr’s observation that this is a sub-measure with relatively low transaction volumes, warrants a pass at the PM level. However, Mr. Ehr did make a good point, as follows:

Moreover, SBC Illinois’ Network organization has recently implemented an improved management tool that allows for daily monitoring of PM 35 results, and now has the ability to proactively monitor results and identify issues. A current area of process improvement is increased testing of Pending Auto Complete (PAC) service orders. In the event of line trouble a Network technician is dispatched to resolve the service issue. These efforts have resulted in parity performance for the most recent two months, December 2002 and January 2003.²⁶

67. As of March 4, 2003, information posted by SBC Illinois to CLEC Online indicates that SBC Illinois passed this sub-measure for both December 2002 (z-factor of 0.329) and January 2003 (z-factor of –1.033). Given the reported system improvements, as well as the recently improved service, I revise my position on PM 35 and delete it from the “Key PM’s Requiring Improvement” list.

²⁴ *Ibid*, paragraph 69.

²⁵ Ehr Rebuttal Affidavit, paragraph 69.

²⁶ *Ibid*, paragraph 69.

XXII. Response to Ehr's Position on PM 37: Number of Trouble Reports Per 100 Lines.

68. Mr. Ehr responds to my position on PM 37 as follows:

Staff Witness McClerren also discusses trouble report rate performance, focusing on the two submeasures where performance failed to meet the parity standard, PM 37-01 (Resold POTS Residence) and PM 37-04 (UNE-P Business). McClerren Aff. ¶ 123. Performance did not meet the standard in at least two of the three months for both sub-measures. As discussed in my initial affidavit, the actual trouble report rates are not significantly different. The reason for these performance shortfalls is the level of installation trouble reports. Research by SBC Illinois' Network organization has determined the out-of-parity performance to be due to trouble reports relating to new service order activity that required "pair changes." SBC Illinois has determined that these "installation troubles" were caused by the manner in which the order was processed by the facility assignment system, as I discussed previously in this affidavit. System changes are in process to address the issue.²⁷

69. As of March 4, 2003, information posted by SBC Illinois to CLEC Online indicates that SBC Illinois' performance for sub-measure 37-1, regarding trouble report rate for POTS Residential, passed in December 2002 (z-factor of -0.071) but failed rather dramatically in January 2003 (z-factor of 12.747).

70. As of March 4, 2003, information posted by SBC Illinois to CLEC Online indicates that SBC Illinois' performance for sub-measure 37-4, regarding trouble report rate for UNE-P Business, failed in December 2002 (z-factor of 5.705) but passed in January 2003 (z-factor of 1.226).

²⁷ Ehr Rebuttal Affidavit, paragraph 70.

71. Given that Mr. Ehr indicates that system improvements are in the process of being made to address the issues related to sub-measures 37-1 and 37-4, and significant failures persist, SBC Illinois performance on PM 37 remains fail. It also remains on Staff's "Key PM's Requiring Improvement" table.

XXIII. Response to Ehr's Position on PM MI 2: Percent of Orders Given Jeopardy Notices Within 24 Hours of the Due Date.

72. Mr. Ehr responds to the failure on PM MI 2 as follows:

A major contributor to the "failures" on the submeasures of PM MI 2 is the requirement of a parity standard of comparison. SBC Illinois does not issue jeopardy notices to its retail customers. The parity standard necessitates SBC Illinois create a pseudo-measurement for retail orders that reflects what might be reported if jeopardy notices were actually provided to SBC Illinois retail customers. Accordingly, SBC Illinois and the CLECs have now agreed to apply a benchmark standard of 5% to both PM MI 2 and PM 10.4, which also measures jeopardy notices. This agreed-upon change is before the Commission for approval at this time.²⁸

73. Unfortunately, SBC Illinois' reported data does not support its argument that the reliance on parity is the problem. Consider the following table for the sub-measures failed by SBC Illinois in PM MI 2:

SBC Illinois PM Performance - PM MI 2 Percent Orders Given Jeopardy Notices Within 24 Hours			
Sub-measure	Sep. 02	Oct. 02	Nov. 02
MI 2-1	66.10%	64.71%	59.21%
MI 2-8	12.50%	14.45%	13.59%
MI 2-10	40.47%	46.98%	64.33%

Source: Ehr Direct Affidavit, Attachment A

²⁸ Ehr Rebuttal Affidavit, paragraph 23.

74. SBC Illinois' performance on PM MI 2 would not appear to be resolved by the simple adoption of a 5% benchmark, given that SBC Illinois would need to meet or exceed the standard for more than 95% of the occurrences.²⁹ As of March 5, 2003, there was no information posted by SBC Illinois to the CLEC Online web site pertaining to SBC Illinois' performance relative to PM MI 2. Accordingly, I continue to recommend that PM MI 2 remain in Staff's "Key PM's for Improvement."

XXIV. Response to Ehr's Position on PM MI 14: Percent Completion Notifications Returned Within "X" Hours of Completion of Maintenance.

75. Mr. Ehr correctly pointed out that PM MI 14 pertains to maintenance ticket completion notices, not service order completion. He then stated:

With these points in mind, the out-of-parity performance on the manual disaggregations of PM MI 14 were related to the manual process of creating and sending the manual fax notifications. As I noted at the workshop, effective February 1, 2003, the fax process has been replaced (through discussions and agreement with CLECs in the CLEC User Forum) with the posting of completion notices to a web site.³⁰

76. Mr. Ehr indicates that the PM business rule has been changed from a fax process to a web site posting process. As of March 5, 2003, SBC Illinois has not updated its information posted to the CLEC Online web site regarding its performance relative to PM MI 14. Accordingly, I continue to recommend that PM MI 14 remain in Staff's "Key PM's for Improvement."

XXV. PM Summary

²⁹ There are three exclusions added to PM MI 2's new business rule in Version 1.9. However, there is no evidence in this proceeding that those exclusions would drive the table's percentages up to 95%. Further, as previously indicated, it remains Staff's position that revisions to Version 1.8 of the business rule should not be addressed in this proceeding.

³⁰ Ehr Rebuttal Affidavit, paragraph 34.

77. Based on PM performance, Staff believes SBC Illinois' 271 approval should be rejected. If the Commission elects to provide a positive recommendation to the FCC, regardless of SBC Illinois' failure to meet key PMs, then the Commission should (1) require the company to identify the steps it will take to remedy its current unsatisfactory PM performance (2) and require the Company to demonstrate substantially improved performance by November 2003 or face additional penalties. Following is a table of PMs for which SBC Illinois has not attained satisfactory performance, and that Staff believes are important to the competitive telecommunications environment in Illinois. The table contains the PM number, the PM description, and the affidavit in which more information about the PM is included:

SBC Illinois' Key PM's Requiring Improvement		
PM Number	PM Description	ICC Staff Exh. Citations
7.1	Percent mechanized completions returned within one day	31 & 43
10.1	Percent mechanized rejects returned within one hour.	31 & 43
10.2	Percent manual rejects received electronically and returned with 5 hrs	31 & 43
10.3	Percent manual rejects received manually and returned with 5 hrs	31 & 43
17	Percent of on-time service orders in both ACIS and CABS that post within a 30-day billing cycle	30 & 42
37	The number of trouble reports per 100 lines	29 & 41
55	Average Installation Interval for N,T and C orders	32 & 44
56	Percent Installations Completed Within Customer Requested Due Date	32 & 44
59	Percent network trouble reports within 30 days of installation	32 & 44

62	Average Delay Days for Company caused Missed Due Dates	32 & 44
65	Trouble Report Rate per 100 UNEs	32 & 44
66	Percent Missed Repair Commitments	32 & 44
67	Mean Time to Restore	32 & 44
104	Average time required to update 911 database (facilities based carrier)	36 & 48
MI-2	Percent of orders given jeopardy notices within 24 hours of the due date	29 & 41
MI-14	Percent completion notifications returned within "X" hours of completion of maintenance	29 & 41
C WI-6	Percent form A received with the interval ordered by the Commission	32 & 44

78. Based primarily on these 17 significant PM failures, SBC Illinois has not yet adequately demonstrated that it provides wholesale service to CLECs in a non-discriminatory manner. Based on Staff's PM data review, the Company should not be granted a positive Section 271 recommendation by this Commission. If the Commission finds, notwithstanding Staff's recommendation, that SBC Illinois has met the applicable Section 271 requirements, then the ICC should order the Company to make those improvements contained in the "Key PMs Requiring Improvement" table.

XXVI. Remedy Plan Issues

79. Mr. Ehr addresses administrative issues I raised regarding the remedy plan in my direct affidavit: 1) my concern that not all CLECs have opted into the 01-0120 plan, and 2) my proposal regarding the proposed four year term of

the Compromise Plan.³¹ Finally, I would like to respond to Mr. Ehr's characterization of my position on the floor provision (i.e., ceilings and floors). While Mr. Ehr did not rebut audit issues contained in my direct affidavit, the Company's Phase II Reply Comments referenced an 18 month audit cycle and a regional (five state) audit process. I continue to believe, as stated in my Direct Affidavit, as follows:

- It must be clear that the audit will be for both performance measures and remedy plan payments.
- The term "periodic" should be changed to be clear that these audits are to be performed on an annual basis.
- It is also unclear how a "regional" audit, conducted on a five state basis, will be administered and reported to this Commission. If the ICC does not agree with the auditor selection by SBC in any of the other four regional states, it should be clear that this Commission selects the auditor to be used in this state. The auditor selected will also report directly to this Commission and have its scope of review and audit plan approved by this Commission prior to audit inception. ICC Staff Ex. 29.0, paragraph 271.

80. SBCI's position as set forth in its Reply Comments (at 89-90) are directly contrary to what I state above, and because of these differences I cannot support a regional audit. The Commission should require SBCI to perform annual audits, since that is what the Commission approved in Docket 01-0120. If this Commission were to approve a regional audit, the potential for this Commission to lose control over choosing who the auditor is, and potential for conflict with other states in choosing an auditor is too great. SBCI proposes that all five states should agree upon an auditor, or if unanimity cannot be reached, that the ICC submit to the auditor chosen by a

³¹ Ehr Rebuttal Affidavit, paragraph 197.

majority of the five state commissions. This Commission has traditionally reserved its home-rule authority and should continue to do so.

81. In its Reply Comments (at 90), SBCI argues that annual audits ordered by each state would be duplicative and wasteful, would tie up important managerial resources, divert company focus from normal operations and needlessly spend company funds. First, SBC chose to have the five states share a common OSS network for its benefits and efficiencies, consequently, it must also assume the detriments and costs of such a system. Second, every state has a right to its own autonomy and to set requirements for the RBOC so that it will operate in a manner that is in that states public interest. Third, waste, duplication, loss of time and spending could be reduced if every state had an annual audit.
82. For the opt-in process, Mr. Ehr indicates that SBC Illinois will make its Compromise Plan available via the same opt-in process outlined in Docket 01-0120. Mr. Ehr indicates that SBC Illinois has already advised CLECs via an accessible letter of remedy plans available in Illinois, and is willing to send another accessible letter. Mr. Ehr also indicates SBC Illinois is willing to discuss implementing the Verizon remedy plan, and states that "...these same 21 CLECs submit nearly none out of every 10 orders SBC Illinois receives."³²

³² Ehr Rebuttal Affidavit, paragraph 238.

83. Mr. Ehr's reference to the Verizon remedy plan must be an error of some sort, since he knows it has never been applied to the business rules that SBC Illinois is operating under, and there is no information in this proceeding under which the Commission can consider it. Similarly, I am fairly confident that Mr. Ehr did not mean to indicate that "...these same 21 CLECs submit nearly none out of every 10 orders SBC Illinois receives." Rather, I am fairly certain he meant to indicate "...nearly nine out of every 10..."
84. Regarding the opt-in process, Mr. Ehr also states that, "As such, there clearly is no need for a remedy plan to be applicable to all CLECs to provide effective anti-backsliding incentives."³³ Staff continues to believe that, for the evidence and analysis presented in this docket to be accurate and effective, all carriers, or a majority of carriers, need to have the same plan. The analysis performed in this docket, of the dollar amounts used to incent SBC Illinois' behavior is based on the dollar amounts paid when all carriers would take of one plan. Therefore, the more carriers who are on one plan, the more accurate the analysis performed herein, and therefore the greater the likelihood that the level of incentive this Commission deems appropriate to prevent backsliding will be put in place.
85. Regarding my proposal regarding the proposed four year term of the Compromise Plan, Mr. Ehr states:

³³ Ehr Rebuttal Affidavit, paragraph 238.

Staff Witness McClerren proposes that a review be conducted in 36 months to “address all aspects” of the remedy plan. SBC is agreeable to entering negotiations in 36 months to discuss modifications, should it be determined that a plan is still needed beyond four years.³⁴

86. While the Company appears to accept my proposal, there is one clarification. It is my understanding that the Company agrees to enter remedy plan negotiations in 36 months, and Staff’s proposal is that a proceeding be commenced in 36 months, not negotiations. Furthermore, the plan, or plans, approved in this proceeding should continue to be offered until that proceeding decides otherwise. Below is the recommendation from my Direct Affidavit regarding the remedy plan term:

In sum, to address the uncertainties identified above, the Commission should not order a four-year expiration date in this proceeding. Rather, the Commission should order that a remedy plan proceeding commence in 36 months from the order in this proceeding to address all aspects of SBC Illinois’ remedy plan, including the need for a remedy plan, the effectiveness of the existing remedy plan, the overall condition and volumes in the marketplace, and the need for changes to the existing remedy plan.

87. Accordingly, it appears the Company and I are in substantial agreement about the appropriate term for this remedy plan.
88. Regarding the parity with a floor issue, Mr. Ehr states:

In Docket No. 01-0120, the CLECs proposed (and Staff supported) a one-sided “floor” on certain measures, without a ceiling, on the theory that CLECs were damaged by poor performance even if there was parity.³⁵

89. I want to clarify that I supported the parity with a floor provision in Docket 01-0120 because I wanted to be sure that consumers received the minimal level of service directed by 83 Ill. Adm. Code Part 730. Part 730 sets

³⁴ *Ibid*, paragraph 239.

³⁵ Ehr Rebuttal Affidavit, paragraph 224.

performance standards for retail services. It was my contention that, if SBC Illinois did not provide CLECs the minimum level of service required by Part 730, there was no way that the CLEC could provide that minimum level of service to its own customers. That concern is not addressed by the proposed floors in this proceeding. The floors proposed by SBC Illinois as part of the SBC Illinois plan are not the same as the standards contained in Part 730, therefore, SBC Illinois' proposed floor does not consider the minimum standards found in Code Part 730.

XXVII. Remedy Plan Summary

90. The Commission should not place a four-year expiration date on the remedy plan(s) approved in this proceeding. Rather, the Commission should order that a remedy plan proceeding commence in 36 months to address all aspects of SBC Illinois' remedy plan, including the need for a remedy plan, the effectiveness of the existing remedy plan, the overall condition and volumes in the marketplace, and the need for changes to the existing remedy plan.

State of Illinois)

City of Springfield)

REBUTTAL AFFIDAVIT OF SAMUEL S. MCCLERREN

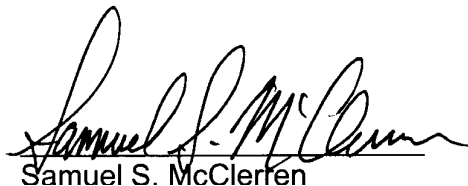
Samuel S. McClerren, under oath, deposes and states as follows:

1. My name is Samuel S. McClerren. My business address is 527 East Capitol Avenue, Springfield, Illinois 62701. I am an Engineering Analyst in the Engineering Analyst in the Telecommunications Division of the Illinois Commerce Commission.

2. The attached rebuttal affidavit prepared for use in Phase 2 of Docket 01-0662 is based on my personal knowledge.

3. I hereby swear and affirm that the information contained in the document cited above are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.


Samuel S. McClerren

Subscribed and sworn to before me this 12th day of March, 2003.


Notary Public

